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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,699	08/26/2003	Peter W. A. Bergin	C63.12-0002	4042
7590	04/08/2004		EXAMINER	
Nickolas E. Westman Westman, Champlin & Kelly Suite 1600 900 Second Avenue South Minneapolis, MN 55402-3319			HARRIS, STEPHANIE N	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/648,699	BERGIN, PETER W. A.
	Examiner Stephanie Harris	Art Unit 3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-10 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4/3/04</u> .	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Forston (USPN 6457772).

Regarding claim 1, Forston discloses an accessory support (10) for positioning on the backs (16) of a pair of side-by-side chairs (14) as seen in Figure 1. The chairs have chair back brackets (18) located along sides of the chair backs that are attached to a standard (12) when the chairs are side-by-side as seen in Figure 1. The accessory support (10) comprises a housing (20) having receptacles (32, 52) for receiving accessories as seen in Figure 1. A substantially vertical bracket wall (34) extends from the accessory support for placement between a pair of chair backs for securing to the chair back brackets as seen in Figure 1 and 4.

Regarding claim 2, end supports (44) protrude from the accessory support housing to engage the surfaces of the chair backs as seen in Figures 1 and 5. The end supports are spaced laterally from and on opposite sides of the vertical bracket wall (34) as seen in Figure 2.

Regarding claim 3, a flange (46) is located on the accessory support housing at an upper side extending toward the chair back and having an edge (46) contoured to

conform to chair back contours when mounted on side by side chair backs as seen in Figure 2 and 4.

Regarding claim 4, the end supports (44) comprise a separate end support member (50), having generally vertical walls inclined at a perpendicular angle toward the accessory support from a bottom plane, at each end of the accessory support housing as seen in Figure 5. The vertical walls (50) are used to engage the chair backs, which are inclined rearwardly and upwardly, while maintaining an upper surface of the accessory support generally horizontal as seen in Figures 4 and 5.

Regarding claims 5 and 6, the receptacles (32, 52) can receive books, pencils, communion cups, and memo pads.

Regarding claim 7, the accessory support housing comprises a main section (20) protruding outwardly from chair backs on which the accessory support housing is mounted as seen in Figure 1. A wall (50) on the side of the main section is spaced from the chair backs as seen in Figure 5. The ends (46) having rounded corner walls joining end walls of the main section (50) as seen in Figure 3, and ears (46) protruding from end walls of the main section to define the outer lateral side edges of the main section as seen in Figure 2.

Regarding claim 8, a holder (10) that can be used for books, pads, pens, pencils and the like is attachable at the backs of a pair of side- by-side chairs (14) as seen in Figure 1. The chair has side brackets (18) for attachment to a standard (12) having a support wall as seen in Figure 1. The holder has a racket wall (50) that extends outwardly from the holder in the midportion of the chair for placement between the

brackets of the chair backs and the standard as seen in Figures 1 and 5. The holder extends laterally of the bracket wall to engage the surfaces of the two adjacent chair backs when the bracket wall is positioned on the support wall as seen in Figures 1 and 5.

Regarding claim 9, a flange (44) is located on the holder at an upper side and having an edge (46) that is contoured to fit into a concave recess formed by adjacent chair backs as seen in Figures 4 and 5.

Regarding claim 10, a pair of end supports (56, 58) are located on opposite ends of the holder comprising a separate end support member at each end of the accessory support as seen in Figure 3. The end support members having generally vertical walls (68) that can be inclined perpendicularly from a maximum width adjacent a lower edge to a minimum width adjacent a top of the holder.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to accessory supports for chair backs: USPN 5628103, USPN 951134, USPN 5709429, USPN 5421638, USPN 6607241, USPN 6260811, USPN 5713628, USPN 4767131, and USPN 3254931.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 3pm.

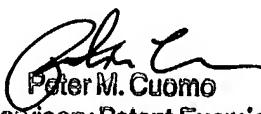
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SNH

April 3, 2004

Stephanie Harris  
Examiner  
Art Unit 3636

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600